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8 *Attorneys for Defendant/Counterclaimant*
9 *HAS BRANDS LLC and*
10 *Defendant Oren Halali*

11 **UNITED STATES DISTRICT COURT**
12 **CENTRAL DISTRICT OF CALIFORNIA**

13 ASICS AMERICA CORPORATION,

14 Plaintiff,

15 v.

16 HAS BRANDS LLC, OREN HALALI,
17 and JOHN DOES, 1-10,

18 Defendant.

19
20 HAS BRANDS LLC,

21 Counterclaimant,

22 v.

23 ASICS AMERICA CORPORATION
24 and ASICS CORPORATION,

25 Counterclaim-Defendants.
26
27
28

Case No. 8:23-cv-02262-FWS-DFM

**DEFENDANTS' ANSWER AND
AFFIRMATIVE DEFENSES TO
COMPLAINT AND
COUNTERCLAIMS**

DEMAND FOR JURY TRIAL

Action Filed: November 30, 2023

Trial Date: n/a

Judge: Fred W. Slaughter

1 Defendants HAS BRANDS LLC and Oren Halali (“Defendants”), through
 2 their counsel, hereby responds to the Complaint, filed on November 30, 2023 (ECF
 3 No. 5, “Complaint”) of Plaintiff Asics America Corporation (“Plaintiff”) as set forth
 4 below. In response to all paragraphs of the Complaint, Defendants deny each and
 5 every allegation except as expressly admitted herein.

6 **PARTIES**

7 1. Defendants deny the allegations of paragraph “1” of the Complaint in that
 8 they presently lack sufficient knowledge or information upon which to form a belief
 9 as to the truth thereof.

10 2. Defendant HAS BRANDS LLC admits that it is a limited liability
 11 company, organized under the laws of New York, with a registered address of 519
 12 8th Ave., Rm. 800, New York, NY 10018.

13 3. Defendant Oren Halali admits he is a natural person and a principal of
 14 HAS BRANDS LLC. Defendants deny the remaining allegations of paragraph “3” of
 15 the Complaint.

16 4. Defendants admit that HAS BRANDS LLC operates the Amazon
 17 storefront named HAS BRANDS (Merchant ID: A1L773GETBGUZ2), which lists
 18 “HAS BRANDS LLC” as the business name and 519 8TH AVE, RM 800, NEW
 19 YORK, NY, 10018-5182, US as the business address. Defendants deny the remaining
 20 allegations of paragraph “4” of the Complaint.

21 5. Defendants deny the allegations of paragraph “5” of the Complaint in that
 22 they presently lack sufficient knowledge or information upon which to form a belief
 23 as to the truth thereof.

24 **JURISDICTION**

25 6. Defendants admit that the Complaint purports to allege federal claims
 26 against Defendants predicated on 15 U.S.C. § 1114 and 15 U.S.C. § 1125(a).
 27 Defendants deny the remainder of the allegations of paragraph “6” of the Complaint.

28 7. Defendants deny the allegations of paragraph “7” of the Complaint.

8. Defendants deny the allegations of paragraph “8” of the Complaint.

VENUE

9. Defendants deny the allegations of paragraph “9” of the Complaint.

FACTUAL ALLEGATIONS

10. Defendants deny the allegations of paragraph “10” of the Complaint of the Complaint in that they presently lack sufficient knowledge or information upon which to form a belief as to the truth thereof.

11. Defendants deny the allegations of paragraph “11” of the Complaint of the Complaint in that they presently lack sufficient knowledge or information upon which to form a belief as to the truth thereof.

12. Defendants deny the allegations of paragraph “12” of the Complaint of the Complaint in that they presently lack sufficient knowledge or information upon which to form a belief as to the truth thereof.

13. Defendants deny the allegations of paragraph “13” of the Complaint of the Complaint in that they presently lack sufficient knowledge or information upon which to form a belief as to the truth thereof.

14. Defendants deny the allegations of paragraph “14” of the Complaint of the Complaint in that they presently lack sufficient knowledge or information upon which to form a belief as to the truth thereof.

15. Defendants deny the allegations of paragraph “15” of the Complaint of the Complaint in that they presently lack sufficient knowledge or information upon which to form a belief as to the truth thereof.

16. Defendants deny the allegations of paragraph “16” of the Complaint of the Complaint in that they presently lack sufficient knowledge or information upon which to form a belief as to the truth thereof.

17. Defendants deny the allegations of paragraph “17” of the Complaint in that they presently lack sufficient knowledge or information upon which to form a belief as to the truth thereof.

1 18. Defendants deny the allegations of paragraph “18” of the Complaint of
2 the Complaint in that they presently lack sufficient knowledge or information upon
3 which to form a belief as to the truth thereof.

4 19. Defendants deny the allegations of paragraph “19” of the Complaint of
5 the Complaint in that they presently lack sufficient knowledge or information upon
6 which to form a belief as to the truth thereof.

7 20. Defendants deny the allegations of paragraph “20” of the Complaint of
8 the Complaint in that they presently lack sufficient knowledge or information upon
9 which to form a belief as to the truth thereof.

10 21. Defendants deny the allegations of paragraph “21” of the Complaint of
11 the Complaint in that they presently lack sufficient knowledge or information upon
12 which to form a belief as to the truth thereof.

13 22. Defendants deny the allegations of paragraph “22” of the Complaint of
14 the Complaint in that they presently lack sufficient knowledge or information upon
15 which to form a belief as to the truth thereof.

16 23. Defendants deny the allegations of paragraph “23” of the Complaint of
17 the Complaint in that they presently lack sufficient knowledge or information upon
18 which to form a belief as to the truth thereof.

19 24. Defendants deny the allegations of paragraph “24” of the Complaint of
20 the Complaint in that they presently lack sufficient knowledge or information upon
21 which to form a belief as to the truth thereof.

22 25. Defendants deny the allegations of paragraph “25” of the Complaint of
23 the Complaint in that they presently lack sufficient knowledge or information upon
24 which to form a belief as to the truth thereof.

25 26. Defendants deny the allegations of paragraph “26” of the Complaint of
26 the Complaint in that they presently lack sufficient knowledge or information upon
27 which to form a belief as to the truth thereof.
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1 27. Defendants deny the allegations of paragraph “27” of the Complaint of
2 the Complaint in that they presently lack sufficient knowledge or information upon
3 which to form a belief as to the truth thereof.

4 28. Defendants deny the allegations of paragraph “28” of the Complaint of
5 the Complaint in that they presently lack sufficient knowledge or information upon
6 which to form a belief as to the truth thereof.

7 29. Defendants deny the allegations of paragraph “29” of the Complaint of
8 the Complaint in that they presently lack sufficient knowledge or information upon
9 which to form a belief as to the truth thereof.

10 30. Defendants deny the allegations of paragraph “30” of the Complaint of
11 the Complaint in that they presently lack sufficient knowledge or information upon
12 which to form a belief as to the truth thereof.

13 31. Defendants deny the allegations of paragraph “31” of the Complaint of
14 the Complaint in that they presently lack sufficient knowledge or information upon
15 which to form a belief as to the truth thereof.

16 32. Defendants deny the allegations of paragraph “32” of the Complaint of
17 the Complaint in that they presently lack sufficient knowledge or information upon
18 which to form a belief as to the truth thereof.

19 33. Defendants deny the allegations of paragraph “33” of the Complaint of
20 the Complaint in that they presently lack sufficient knowledge or information upon
21 which to form a belief as to the truth thereof.

22 34. Defendants deny the allegations of paragraph “34” of the Complaint of
23 the Complaint in that they presently lack sufficient knowledge or information upon
24 which to form a belief as to the truth thereof.

25 35. Defendants deny the allegations of paragraph “35” of the Complaint of
26 the Complaint in that they presently lack sufficient knowledge or information upon
27 which to form a belief as to the truth thereof.
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1 36. Defendants deny the allegations of paragraph “36” of the Complaint of
2 the Complaint in that they presently lack sufficient knowledge or information upon
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4 37. Defendants deny the allegations of paragraph “37” of the Complaint of
5 the Complaint in that they presently lack sufficient knowledge or information upon
6 which to form a belief as to the truth thereof.

7 38. Defendants deny the allegations of paragraph “38” of the Complaint of
8 the Complaint in that they presently lack sufficient knowledge or information upon
9 which to form a belief as to the truth thereof.

10 39. Defendants deny the allegations of paragraph “39” of the Complaint of
11 the Complaint in that they presently lack sufficient knowledge or information upon
12 which to form a belief as to the truth thereof.

13 40. Defendants deny the allegations of paragraph “40” of the Complaint of
14 the Complaint in that they presently lack sufficient knowledge or information upon
15 which to form a belief as to the truth thereof.

16 41. Defendants deny the allegations of paragraph “41” of the Complaint of
17 the Complaint in that they presently lack sufficient knowledge or information upon
18 which to form a belief as to the truth thereof.

19 42. Defendants deny the allegations of paragraph “42” of the Complaint of
20 the Complaint in that they presently lack sufficient knowledge or information upon
21 which to form a belief as to the truth thereof.

22 43. Defendants deny the allegations of paragraph “43” of the Complaint of
23 the Complaint in that they presently lack sufficient knowledge or information upon
24 which to form a belief as to the truth thereof.

25 44. Defendants deny the allegations of paragraph “44” of the Complaint of
26 the Complaint in that they presently lack sufficient knowledge or information upon
27 which to form a belief as to the truth thereof.
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1 45. Defendants deny the allegations of paragraph “45” of the Complaint of
2 the Complaint in that they presently lack sufficient knowledge or information upon
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4 46. Defendants deny the allegations of paragraph “46” of the Complaint of
5 the Complaint in that they presently lack sufficient knowledge or information upon
6 which to form a belief as to the truth thereof.

7 47. Defendants deny the allegations of paragraph “47” of the Complaint of
8 the Complaint in that they presently lack sufficient knowledge or information upon
9 which to form a belief as to the truth thereof.

10 48. Defendants deny the allegations of paragraph “48” of the Complaint of
11 the Complaint in that they presently lack sufficient knowledge or information upon
12 which to form a belief as to the truth thereof.

13 49. Defendants deny the allegations of paragraph “49” of the Complaint of
14 the Complaint in that they presently lack sufficient knowledge or information upon
15 which to form a belief as to the truth thereof.

16 50. Defendants deny the allegations of paragraph “50” of the Complaint of
17 the Complaint in that they presently lack sufficient knowledge or information upon
18 which to form a belief as to the truth thereof.

19 51. Defendants deny the allegations of paragraph “51” of the Complaint of
20 the Complaint in that they presently lack sufficient knowledge or information upon
21 which to form a belief as to the truth thereof.

22 52. Defendants deny the allegations of paragraph “52” of the Complaint of
23 the Complaint in that they presently lack sufficient knowledge or information upon
24 which to form a belief as to the truth thereof.

25 53. Defendants deny the allegations of paragraph “53” of the Complaint of
26 the Complaint in that they presently lack sufficient knowledge or information upon
27 which to form a belief as to the truth thereof.

1 54. Defendants deny the allegations of paragraph “54” of the Complaint of
2 the Complaint in that they presently lack sufficient knowledge or information upon
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4 55. Defendants deny the allegations of paragraph “55” of the Complaint of
5 the Complaint in that they presently lack sufficient knowledge or information upon
6 which to form a belief as to the truth thereof.

7 56. Defendants deny the allegations of paragraph “56” of the Complaint of
8 the Complaint in that they presently lack sufficient knowledge or information upon
9 which to form a belief as to the truth thereof.

10 57. Defendants deny the allegations of paragraph “57” of the Complaint of
11 the Complaint in that they presently lack sufficient knowledge or information upon
12 which to form a belief as to the truth thereof.

13 58. Defendants deny the allegations of paragraph “58” of the Complaint of
14 the Complaint in that they presently lack sufficient knowledge or information upon
15 which to form a belief as to the truth thereof.

16 59. Defendants deny the allegations of paragraph “59” of the Complaint of
17 the Complaint in that they presently lack sufficient knowledge or information upon
18 which to form a belief as to the truth thereof.

19 60. Defendants deny the allegations of paragraph “60” of the Complaint of
20 the Complaint in that they presently lack sufficient knowledge or information upon
21 which to form a belief as to the truth thereof.

22 61. Defendants deny the allegations of paragraph “61” of the Complaint of
23 the Complaint in that they presently lack sufficient knowledge or information upon
24 which to form a belief as to the truth thereof.

25 62. Defendants deny the allegations of paragraph “62” of the Complaint of
26 the Complaint in that they presently lack sufficient knowledge or information upon
27 which to form a belief as to the truth thereof.
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1 63. Defendants deny the allegations of paragraph “63” of the Complaint of
2 the Complaint in that they presently lack sufficient knowledge or information upon
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4 64. Defendants deny the allegations of paragraph “64” of the Complaint of
5 the Complaint in that they presently lack sufficient knowledge or information upon
6 which to form a belief as to the truth thereof.

7 65. Defendants deny the allegations of paragraph “65” of the Complaint of
8 the Complaint in that they presently lack sufficient knowledge or information upon
9 which to form a belief as to the truth thereof.

10 66. Defendants deny the allegations of paragraph “66” of the Complaint of
11 the Complaint in that they presently lack sufficient knowledge or information upon
12 which to form a belief as to the truth thereof.

13 67. Defendants deny the allegations of paragraph “67” of the Complaint.

14 68. Defendants deny the allegations of paragraph “68” of the Complaint of
15 the Complaint in that they presently lack sufficient knowledge or information upon
16 which to form a belief as to the truth thereof.

17 69. Defendants deny the allegations of paragraph “69” of the Complaint.

18 70. Defendants deny the allegations of paragraph “70” of the Complaint of
19 the Complaint in that they presently lack sufficient knowledge or information upon
20 which to form a belief as to the truth thereof.

21 71. Defendants deny the allegations of paragraph “71” of the Complaint of
22 the Complaint in that they presently lack sufficient knowledge or information upon
23 which to form a belief as to the truth thereof.

24 72. Defendants deny the allegations of paragraph “72” of the Complaint of
25 the Complaint in that they presently lack sufficient knowledge or information upon
26 which to form a belief as to the truth thereof.

1 73. Defendants deny the allegations of paragraph “73” of the Complaint of
2 the Complaint in that they presently lack sufficient knowledge or information upon
3 which to form a belief as to the truth thereof.

4 74. Defendants deny the allegations of paragraph “74” of the Complaint of
5 the Complaint in that they presently lack sufficient knowledge or information upon
6 which to form a belief as to the truth thereof.

7 75. Defendants deny the allegations of paragraph “75” of the Complaint of
8 the Complaint in that they presently lack sufficient knowledge or information upon
9 which to form a belief as to the truth thereof.

10 76. Defendants deny the allegations of paragraph “76” of the Complaint of
11 the Complaint in that they presently lack sufficient knowledge or information upon
12 which to form a belief as to the truth thereof.

13 77. Defendants deny the allegations of paragraph “77” of the Complaint of
14 the Complaint in that they presently lack sufficient knowledge or information upon
15 which to form a belief as to the truth thereof.

16 78. Defendants deny the allegations of paragraph “78” of the Complaint of
17 the Complaint in that they presently lack sufficient knowledge or information upon
18 which to form a belief as to the truth thereof.

19 79. Defendants deny the allegations of paragraph “79” of the Complaint of
20 the Complaint in that they presently lack sufficient knowledge or information upon
21 which to form a belief as to the truth thereof.

22 80. Defendants deny the allegations of paragraph “80” of the Complaint of
23 the Complaint in that they presently lack sufficient knowledge or information upon
24 which to form a belief as to the truth thereof.

25 81. Defendants deny the allegations of paragraph “81” of the Complaint of
26 the Complaint in that they presently lack sufficient knowledge or information upon
27 which to form a belief as to the truth thereof.
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1 82. Defendants deny the allegations of paragraph “82” of the Complaint of
2 the Complaint in that they presently lack sufficient knowledge or information upon
3 which to form a belief as to the truth thereof.

4 83. Defendants deny the allegations of paragraph “83” of the Complaint of
5 the Complaint in that they presently lack sufficient knowledge or information upon
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7 84. Defendants deny the allegations of paragraph “84” of the Complaint of
8 the Complaint in that they presently lack sufficient knowledge or information upon
9 which to form a belief as to the truth thereof.

10 85. Defendants deny the allegations of paragraph “85” of the Complaint of
11 the Complaint in that they presently lack sufficient knowledge or information upon
12 which to form a belief as to the truth thereof.

13 86. Defendants deny the allegations of paragraph “86” of the Complaint of
14 the Complaint in that they presently lack sufficient knowledge or information upon
15 which to form a belief as to the truth thereof.

16 87. Defendants deny the allegations of paragraph “87” of the Complaint of
17 the Complaint in that they presently lack sufficient knowledge or information upon
18 which to form a belief as to the truth thereof.

19 88. Defendants deny the allegations of paragraph “88” of the Complaint of
20 the Complaint in that they presently lack sufficient knowledge or information upon
21 which to form a belief as to the truth thereof.

22 89. Defendants deny the allegations of paragraph “89” of the Complaint of
23 the Complaint in that they presently lack sufficient knowledge or information upon
24 which to form a belief as to the truth thereof.

25 90. Defendants deny the allegations of paragraph “90” of the Complaint of
26 the Complaint in that they presently lack sufficient knowledge or information upon
27 which to form a belief as to the truth thereof.
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1 91. Defendants deny the allegations of paragraph “91” of the Complaint of
2 the Complaint in that they presently lack sufficient knowledge or information upon
3 which to form a belief as to the truth thereof.

4 92. Defendants deny the allegations of paragraph “92” of the Complaint of
5 the Complaint in that they presently lack sufficient knowledge or information upon
6 which to form a belief as to the truth thereof.

7 93. Defendants deny the allegations of paragraph “93” of the Complaint of
8 the Complaint in that they presently lack sufficient knowledge or information upon
9 which to form a belief as to the truth thereof.

10 94. Defendants deny the allegations of paragraph “94” of the Complaint of
11 the Complaint in that they presently lack sufficient knowledge or information upon
12 which to form a belief as to the truth thereof.

13 95. Defendants deny the allegations of paragraph “95” of the Complaint of
14 the Complaint in that they presently lack sufficient knowledge or information upon
15 which to form a belief as to the truth thereof.

16 96. Defendants deny the allegations of paragraph “96” of the Complaint of
17 the Complaint in that they presently lack sufficient knowledge or information upon
18 which to form a belief as to the truth thereof.

19 97. Defendants deny the allegations of paragraph “97” of the Complaint of
20 the Complaint in that they presently lack sufficient knowledge or information upon
21 which to form a belief as to the truth thereof.

22 98. Defendants deny the allegations of paragraph “98” of the Complaint of
23 the Complaint in that they presently lack sufficient knowledge or information upon
24 which to form a belief as to the truth thereof.

25 99. Defendants deny the allegations of paragraph “99” of the Complaint.

26 100. Defendants deny the allegations of paragraph “100” of the Complaint.
27
28

1 101. Defendants deny the allegations of paragraph “101” of the Complaint of
2 the Complaint in that they presently lack sufficient knowledge or information upon
3 which to form a belief as to the truth thereof.

4 102. Defendants deny the allegations of paragraph “102” of the Complaint of
5 the Complaint in that they presently lack sufficient knowledge or information upon
6 which to form a belief as to the truth thereof.

7 103. Defendants deny the allegations of paragraph “103” of the Complaint in
8 that they presently lack sufficient knowledge or information upon which to form a
9 belief as to the truth thereof.

10 104. Defendants deny the allegations of paragraph “104” of the Complaint in
11 that they presently lack sufficient knowledge or information upon which to form a
12 belief as to the truth thereof.

13 105. Defendants deny the allegations of paragraph “105” of the Complaint in
14 that they presently lack sufficient knowledge or information upon which to form a
15 belief as to the truth thereof.

16 106. Defendants deny the allegations of paragraph “106” of the Complaint in
17 that they presently lack sufficient knowledge or information upon which to form a
18 belief as to the truth thereof.

19 107. Defendants deny the allegations of paragraph “107” of the Complaint in
20 that they presently lack sufficient knowledge or information upon which to form a
21 belief as to the truth thereof.

22 108. Defendants deny the allegations of paragraph “108” of the Complaint in
23 that they presently lack sufficient knowledge or information upon which to form a
24 belief as to the truth thereof.

25 109. Defendants deny the allegations of paragraph “109” of the Complaint in
26 that they presently lack sufficient knowledge or information upon which to form a
27 belief as to the truth thereof.
28

1 110. Defendants deny the allegations of paragraph “110” of the Complaint in
2 that they presently lack sufficient knowledge or information upon which to form a
3 belief as to the truth thereof.

4 111. Defendants deny the allegations of paragraph “111” of the Complaint in
5 that they presently lack sufficient knowledge or information upon which to form a
6 belief as to the truth thereof.

7 112. Defendants deny the allegations of paragraph “112” of the Complaint.

8 113. Defendants deny the allegations of paragraph “113” of the Complaint.

9 114. Defendants deny the allegations of paragraph “114” of the Complaint of
10 the Complaint in that they presently lack sufficient knowledge or information upon
11 which to form a belief as to the truth thereof.

12 115. Defendants deny the allegations of paragraph “115” of the Complaint.

13 116. Defendants deny the allegations of paragraph “116” of the Complaint.

14 117. Defendants deny the allegations of paragraph “117” of the Complaint.

15 118. Defendants deny the allegations of paragraph “118” of the Complaint.

16 119. Defendants deny the allegations of paragraph “119” of the Complaint.

17 120. Defendants deny the allegations of paragraph “120” of the Complaint.

18 121. Defendants deny the allegations of paragraph “121” of the Complaint of
19 the Complaint in that they presently lack sufficient knowledge or information upon
20 which to form a belief as to the truth thereof.

21 122. Defendants deny the allegations of paragraph “122” of the Complaint of
22 the Complaint in that they presently lack sufficient knowledge or information upon
23 which to form a belief as to the truth thereof.

24 123. Defendants deny the allegations of paragraph “123” of the Complaint.

25 124. Defendants deny the allegations of paragraph “124” of the Complaint.

26 125. Defendants deny the allegations of paragraph “125” of the Complaint.
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1 126. Defendants deny the allegations of paragraph “126” of the Complaint in
2 that they presently lack sufficient knowledge or information upon which to form a
3 belief as to the truth thereof.

4 127. Defendants deny the allegations of paragraph “127” of the Complaint.

5 128. Defendants deny the allegations of paragraph “128” of the Complaint.

6 129. Defendants deny the allegations of paragraph “129” of the Complaint.

7 130. Defendants deny the allegations of paragraph “130” of the Complaint in
8 that they presently lack sufficient knowledge or information upon which to form a
9 belief as to the truth thereof.

10 131. Defendants deny the allegations of paragraph “131” of the Complaint.

11 132. Defendants deny the allegations of paragraph “132” of the Complaint.

12 133. Defendants deny the allegations of paragraph “133” of the Complaint in
13 that they presently lack sufficient knowledge or information upon which to form a
14 belief as to the truth thereof.

15 134. Defendants deny the allegations of paragraph “134” of the Complaint in
16 that they presently lack sufficient knowledge or information upon which to form a
17 belief as to the truth thereof.

18 135. Defendants deny the allegations of paragraph “135” of the Complaint in
19 that they presently lack sufficient knowledge or information upon which to form a
20 belief as to the truth thereof.

21 136. Defendants deny the allegations of paragraph “136” of the Complaint in
22 that they presently lack sufficient knowledge or information upon which to form a
23 belief as to the truth thereof.

24 137. Defendants deny the allegations of paragraph “137” of the Complaint in
25 that they presently lack sufficient knowledge or information upon which to form a
26 belief as to the truth thereof.

1 138. Defendants deny the allegations of paragraph “138” of the Complaint in
2 that they presently lack sufficient knowledge or information upon which to form a
3 belief as to the truth thereof.

4 139. Defendants deny the allegations of paragraph “139” of the Complaint.

5 140. Defendants deny the allegations of paragraph “140” of the Complaint.

6 141. Paragraph “141” of the Complaint states a legal conclusion to which no
7 response is required. To the extent a response is required, denied.

8 142. Defendants deny the allegations of paragraph “142” of the Complaint.

9 143. Defendants deny the allegations of paragraph “143” of the Complaint.

10 144. Defendants deny the allegations of paragraph “144” of the Complaint.

11 145. Defendants deny the allegations of paragraph “145” of the Complaint.

12 146. Defendants deny the allegations of paragraph “146” of the Complaint.

13 147. Defendants deny the allegations of paragraph “147” of the Complaint.

14 148. Defendants deny the allegations of paragraph “148” of the Complaint.

15 149. Defendants deny the allegations of paragraph “149” of the Complaint.

16 150. Defendants deny the allegations of paragraph “150” of the Complaint.

17 151. Defendants deny the allegations of paragraph “151” of the Complaint.

18 **FIRST CAUSE OF ACTION**

19 152. Defendants repeat and reiterate each and every one of the foregoing
20 answers in response to the allegations made in paragraph “152” of the Complaint
21 herein with the same force and effect as though set forth at length.

22 153. Defendants deny the allegations of paragraph “153” of the Complaint in
23 that they presently lack sufficient knowledge or information upon which to form a
24 belief as to the truth thereof.

25 154. Defendants deny the allegations of paragraph “154” of the Complaint in
26 that they presently lack sufficient knowledge or information upon which to form a
27 belief as to the truth thereof.

1 155. Defendants deny the allegations of paragraph “155” of the Complaint in
2 that they presently lack sufficient knowledge or information upon which to form a
3 belief as to the truth thereof.

4 156. Defendants deny the allegations of paragraph “156” of the Complaint.

5 157. Defendants deny the allegations of paragraph “157” of the Complaint.

6 158. Defendants deny the allegations of paragraph “158” of the Complaint.

7 159. Defendants deny the allegations of paragraph “159” of the Complaint.

8 160. Defendants deny the allegations of paragraph “160” of the Complaint.

9 161. Defendants deny the allegations of paragraph “161” of the Complaint.

10 162. Defendants deny the allegations of paragraph “162” of the Complaint.

11 163. Defendants deny the allegations of paragraph “163” of the Complaint.

12 164. Defendants deny the allegations of paragraph “164” of the Complaint.

13 165. Defendants deny the allegations of paragraph “165” of the Complaint.

14 166. Defendants deny the allegations of paragraph “166” of the Complaint.

15 **SECOND CAUSE OF ACTION**

16 167. Defendants repeat and reiterate each and every one of the foregoing
17 answers in response to the allegations made in paragraph “167” of the Complaint
18 herein with the same force and effect as though set forth at length.

19 168. Defendants deny the allegations of paragraph “168” of the Complaint.

20 169. Defendants deny the allegations of paragraph “169” of the Complaint.

21 170. Defendants deny the allegations of paragraph “170” of the Complaint.

22 171. Defendants deny the allegations of paragraph “171” of the Complaint.

23 172. Defendants deny the allegations of paragraph “172” of the Complaint.

24 **THIRD CAUSE OF ACTION**

25 173. Defendants repeat and reiterate each and every one of the foregoing
26 answers in response to the allegations made in paragraph “173” of the Complaint
27 herein with the same force and effect as though set forth at length.

28 174. Defendants deny the allegations of paragraph “174” of the Complaint.

1 175. Defendants deny the allegations of paragraph “175” of the Complaint.

2 176. Defendants deny the allegations of paragraph “176” of the Complaint.

3 177. Defendants deny the allegations of paragraph “177” of the Complaint.

4 178. Defendants deny the allegations of paragraph “178” of the Complaint.

5 179. Defendants deny the allegations of paragraph “179” of the Complaint.

6 180. Defendants deny the allegations of paragraph “180” of the Complaint.

7 181. Defendants deny the allegations of paragraph “181” of the Complaint.

8 182. Defendants deny the allegations of paragraph “182” of the Complaint.

9 183. Defendants deny the allegations of paragraph “183” of the Complaint.

10 184. Defendants deny the allegations of paragraph “184” of the Complaint.

11 185. Defendants deny the allegations of paragraph “185” of the Complaint.

12 186. Defendants deny the allegations of paragraph “186” of the Complaint.

13 187. Defendants deny the allegations of paragraph “187” of the Complaint.

14 188. Defendants deny the allegations of paragraph “188” of the Complaint.

15 **FOURTH CAUSE OF ACTION**

16 189. Defendants repeat and reiterate each and every one of the foregoing
17 answers in response to the allegations made in paragraph “189” of the Complaint
18 herein with the same force and effect as though set forth at length.

19 190. Defendants deny the allegations of paragraph “190” of the Complaint.

20 191. Defendants deny the allegations of paragraph “191” of the Complaint.

21 192. Defendants deny the allegations of paragraph “192” of the Complaint.

22 193. Defendants deny the allegations of paragraph “193” of the Complaint.

23 194. Defendants deny the allegations of paragraph “194” of the Complaint.

24 195. Defendants deny the allegations of paragraph “195” of the Complaint.

25 196. Defendants deny the allegations of paragraph “196” of the Complaint.

26 197. Defendants deny the allegations of paragraph “197” of the Complaint.

27 198. Defendants deny the allegations of paragraph “198” of the Complaint.

FIFTH CAUSE OF ACTION

199. Defendants repeat and reiterate each and every one of the foregoing answers in response to the allegations made in paragraph “199” of the Complaint herein with the same force and effect as though set forth at length.

200. Defendants deny the allegations of paragraph “200” of the Complaint in that they presently lack sufficient knowledge or information upon which to form a belief as to the truth thereof.

201. Defendants deny the allegations of paragraph “201” of the Complaint.

202. Defendants deny the allegations of paragraph “202” of the Complaint in that they presently lack sufficient knowledge or information upon which to form a belief as to the truth thereof.

203. Defendants deny the allegations of paragraph “203” of the Complaint.

204. Defendants deny the allegations of paragraph “204” of the Complaint in that they presently lack sufficient knowledge or information upon which to form a belief as to the truth thereof.

205. Defendants deny the allegations of paragraph “205” of the Complaint.

206. Defendants deny the allegations of paragraph “206” of the Complaint.

207. Defendants deny the allegations of paragraph “207” of the Complaint.

PRAYER FOR RELIEF

Defendants deny that Plaintiff is entitled to the relief requested. To the extent that any statement in the prayer for relief is deemed factual, it is denied.

* * *

AFFIRMATIVE DEFENSES

Defendants incorporate by reference the foregoing paragraphs in their entirety and assert the following affirmative defenses to the claims set forth in the Counterclaims. Defendants reserve the right to allege additional Affirmative Defenses as they become known, and accordingly to amend this Answer.

1 **FIRST AFFIRMATIVE DEFENSE**

2 **(Lack of Personal Jurisdiction)**

3 The Court does not have personal jurisdiction over Defendants.

4 **SECOND AFFIRMATIVE DEFENSE**

5 **(Lack of Standing)**

6 Plaintiff's claims against Defendants are barred to the extent that Plaintiff lacks
7 standing to assert any of the causes of action and/or form of recovery contained in the
8 Complaint because Plaintiff does not hold exclusive rights in the ASICS trademark
9 asserted.

10 **THIRD AFFIRMATIVE DEFENSE**

11 **(Failure to State a Claim)**

12 The Complaint fails to state a claim upon which relief may be granted. In
13 particular, the Complaint fails to provide any factual support for any of the claims
14 from which the Court could conclude that Defendants are liable for any claim.

15 **FOURTH AFFIRMATIVE DEFENSE**

16 **(Exhaustion Doctrine/First-Sale Doctrine)**

17 Plaintiff's claims against Defendants are barred by the exhaustion doctrine/first
18 sale doctrine. In particular, the ASICS brand products sold by HAS BRANDS LLC
19 are not materially different than the ASICS brand products authorized for sale in the
20 United States by the owner of the ASICS mark, Asics Corporation.

21 **FIFTH AFFIRMATIVE DEFENSE**

22 **(Non-Infringement of Trademark)**

23 Defendants have not infringed, nor are they infringing, the purported ASICS
24 Trademark and are not liable for infringement thereof.

25 **SIXTH AFFIRMATIVE DEFENSE**

26 **(Trademark Not Protectable)**

27 Plaintiff's purported ASICS trademark is not protectable because it is non-
28 distinctive, lacks secondary meaning, and/or has been abandoned.

SEVENTH AFFIRMATIVE DEFENSE

(Laches)

Plaintiff's claims are barred by laches.

EIGHTH AFFIRMATIVE DEFENSE

(Trademark Misuse)

Plaintiff's claims are barred, in whole or in part, by trademark misuse.

NINTH AFFIRMATIVE DEFENSE

(Unclean Hands)

Plaintiff's action is barred, in whole or in part, under the doctrine of unclean hands. In particular, Plaintiff's claims are barred by its own unlawful conduct.

TENTH AFFIRMATIVE DEFENSE

(No Damages)

Plaintiff's claims are barred in whole or in part because Plaintiff has not sustained any damages for which the Defendants are responsible.

ELEVENTH AFFIRMATIVE DEFENSE

(Failure to Mitigate Damages)

Plaintiff's claims against Defendants are barred, in whole or in part, because Plaintiff has failed to mitigate damages.

TWELFTH AFFIRMATIVE DEFENSE

(License)

Plaintiff's claims against Defendants are barred by license. On information and belief, Plaintiff has granted Amazon an irrevocable license to use the asserted trademarks on the Amazon catalog pages (i.e., ASINs) at issue and to sub-license such trademarks to third-party resellers, like Defendants.

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COUNTERCLAIMS

As for its Counterclaims against Asics America Corporation (“Asics America”) and Asics Corporation (“Asics Japan”) (collectively, “Asics”), by and through its undersigned attorneys, HAS BRANDS LLC (“HAS BRANDS”) hereby alleges as follows:

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NATURE OF THE ACTION

1. This is a declaratory judgement action for non-infringement of the ASICS trademark allegedly owned by Asics Japan, and for cancellation of U.S. Trademark Registration Nos. 1768724, 1128988, and 3305197.

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THE PARTIES

2. HAS BRANDS is a New York limited liability company with a place of business at 519 8th Ave., Rm. 800, New York, NY 10018.

3. HAS BRANDS is in the business of lawfully acquiring and re-selling various consumer products for a profit.

4. HAS BRANDS resells products through various channels, including through an Amazon storefront.

5. Upon information and belief, Asics America Corporation is a California corporation with its principal place of business at 7755 Irvine Center Drive, Ste. 400, Irvine, CA 92618.

6. On information and belief, Asics America is a licensee of the ASICS trademark and distributes ASICS brand products in the United States.

7. Upon information and belief, Asics Corporation is a Japanese corporation with an address at 1-1 Minatojima-Nakamachi, 7 Chome, Chuo-ku Kobe, Japan.

8. On information and belief, Asics Japan is the owner of the ASICS trademarks, including U.S. Trademark Registration Nos. 1768724, 1128988, and 3305197 (collectively, the “ASICS Mark”).

JURISDICTION AND VENUE

9. This action arises under the trademark laws of the United States and seeks a declaratory judgment under 28 U.S.C. §§ 2201 and 2202 and the Trademark Act of 1946, as amended, 15 U.S.C. § 1051 et seq. This Court has subject matter jurisdiction pursuant to 28 U.S.C. §§ 1331, 1338 and 1367 and 15 U.S.C. § 1121.

10. This Court has personal jurisdiction over Asics America because it has subjected itself to the jurisdiction of this Court for purposes of these counterclaims, and because it resides in the State of California.

11. Asics is subject to the personal jurisdiction of this Court, and venue is proper, on the grounds that Asics America elected to bring this action in this Judicial District.

12. On information and belief, Asics Japan has licensed the ASICS Mark to Asics America and has authorized the commencement of this action in this Judicial District.

13. With respect to these counterclaims, venue is proper in this District pursuant to 28 U.S.C. § 1391.

COUNT ONE

Declaratory Judgment of Non-Infringement of the ASICS Trademark

14. HAS BRANDS repeats and re-alleges the allegations contained in Paragraphs 1–13 as if fully set forth herein.

15. Asics Japan manufactures and distributes ASICS brand products and places such products into the stream of commerce.

16. HAS BRANDS stocks, displays, and resells new, genuine ASICS brand products, each bearing a true mark.

17. Under the first sale doctrine, HAS BRANDS is lawfully permitted to re-sell ASICS brand products without violating the intellectual property rights or other legal rights of the owner of the ASICS Mark.

18. The first sale doctrine provides that, once a manufacturer places a product in the stream of commerce through its first sale, it can no longer enforce its intellectual property rights with regard to re-sellers, so long as the re-sellers are selling authentic, unaltered products.

19. Asics America has alleged that it owns or is the exclusive licensee of the ASICS Mark, and that HAS BRANDS has infringed the ASICS Mark.

20. HAS BRANDS is not infringing, and has not ever infringed, the ASICS Mark.

21. The ASICS brand products sold by HAS BRANDS were, at all times and continue to be, authentic products bearing the name of the manufacturer, and were otherwise, at all times, sold lawfully.

22. Asics America's infringement allegations threaten HAS BRANDS business and reputation.

23. On information and belief, Asics Japan is the owner of the ASICS Mark and has provided Asics America with access to the ASICS Mark for purposes of threatening resellers of ASICS brand products with litigation.

24. Under these facts, an actual controversy exists between HAS BRANDS and Asics.

25. HAS BRANDS is entitled to a declaratory judgment that it has not violated Asics' trademark rights or other rights, whether under Federal or State law.

COUNT TWO

Cancellation

26. HAS BRANDS repeats and re-alleges the allegations contained in Paragraph 1–25 as if fully set forth herein.

27. A registration is subject to cancellation “[a]t any time if the registered mark . . . has been abandoned” 15 U.S.C. § 1064(3).

28. Pursuant to Section 45 of the Lanham Act, 15 U.S.C. § 1127, a mark is deemed abandoned “[w]hen any course of conduct of the owner, including acts of

1 omission as well as commission, causes the mark to become the generic name for the
2 goods or services on or in connection with which it is used or otherwise to lose its
3 significance as a mark.”

4 29. One way in which a trademark owner can abandon its mark is by engaging
5 in uncontrolled or “naked” licensing—that is, by licensing the mark to third parties
6 without controlling the quality of those parties’ goods or services bearing the licensed
7 mark.

8 30. On information and belief, Asics Japan engaged in naked licensing of the
9 ASICS Mark by granting licenses to use the marks and failing to exercise adequate
10 control over a substantial percentage of their licensees’ goods and services bearing
11 the ASICS Mark. Asics Japan also lacked the kind of working relationship with its
12 licensees that would have allowed for adequate quality control.

13 31. On information and belief, Asics Japan has not maintained accurate
14 records of the individuals and entities to whom they have purported to grant trademark
15 rights because it allows third-parties to grant sub-licenses of the ASICS Mark without
16 Asics Japan’s approval or knowledge. (*See* Compl. ¶ 14.)

17 32. On information and belief, Asics Japan has not actually exercised
18 adequate control over the nature and quality of its purported licensees’ use of the
19 ASICS Mark.

20 33. On information and belief, Asics Japan fails to actually control the quality
21 of products on which the ASICS Mark is used.

22 34. On information and belief, Asics Japan fails to provide oversight to Asics
23 America regarding the authorization of distributors of ASICS brand products.

24 35. On information and belief, Asics Japan’s naked licensing of its mark has
25 caused the mark to lose trademark significance, and as a consequence, the public no
26 longer associates these marks with a single source of goods or services. Asics Japan
27 thus has abandoned the ASICS Mark through its course of conduct.

1 36. This abandonment warrants the cancellation of the Asics Mark pursuant
2 to 15 U.S.C. §§ 1064(3) and 1119.

3 **PRAYER FOR RELIEF**

4 WHEREFORE, HAS BRANDS prays that this Court enter judgment in its
5 favor and against Asics, as follows:

- 6 (a) Finding that HAS BRANDS has not infringed any valid and enforceable
7 intellectual property right owned by Asics;
8 (b) Entry of a judgment directing the Director of the USPTO to cancel the
9 ASICS Mark;
10 (c) Declaring this case exceptional;
11 (d) Awarding HAS BRANDS its attorneys' fees and costs; and
12 (e) Awarding HAS BRANDS such other and further relief as the Court may
13 deem proper.

14 * * *

15 **DEMAND FOR JURY TRIAL**

16 Defendants hereby request a jury trial for all issues triable by jury.

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18 Respectfully submitted,

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20 Dated: January 31, 2024

TARTER KRINSKY & DROGIN LLP

21 By: /s/ Tyler R. Dowdall

22 Tyler R. Dowdall (Bar No. 258950)

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28 *Attorneys for Defendant/*

Counterclaimant HAS BRANDS LLC

and Defendant Oren Halali

CERTIFICATE OF SERVICE

I hereby certify that on January 31, 2024, I electronically filed the above document(s) with the Clerk of Court using CM/ECF which will send electronic notification of such filing(s) to all registered counsel.

Dated: January 31, 2024

/s/ Tyler R. Dowdall
TYLER R. DOWDALL